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City of Dublin Board of Zoning Appeals

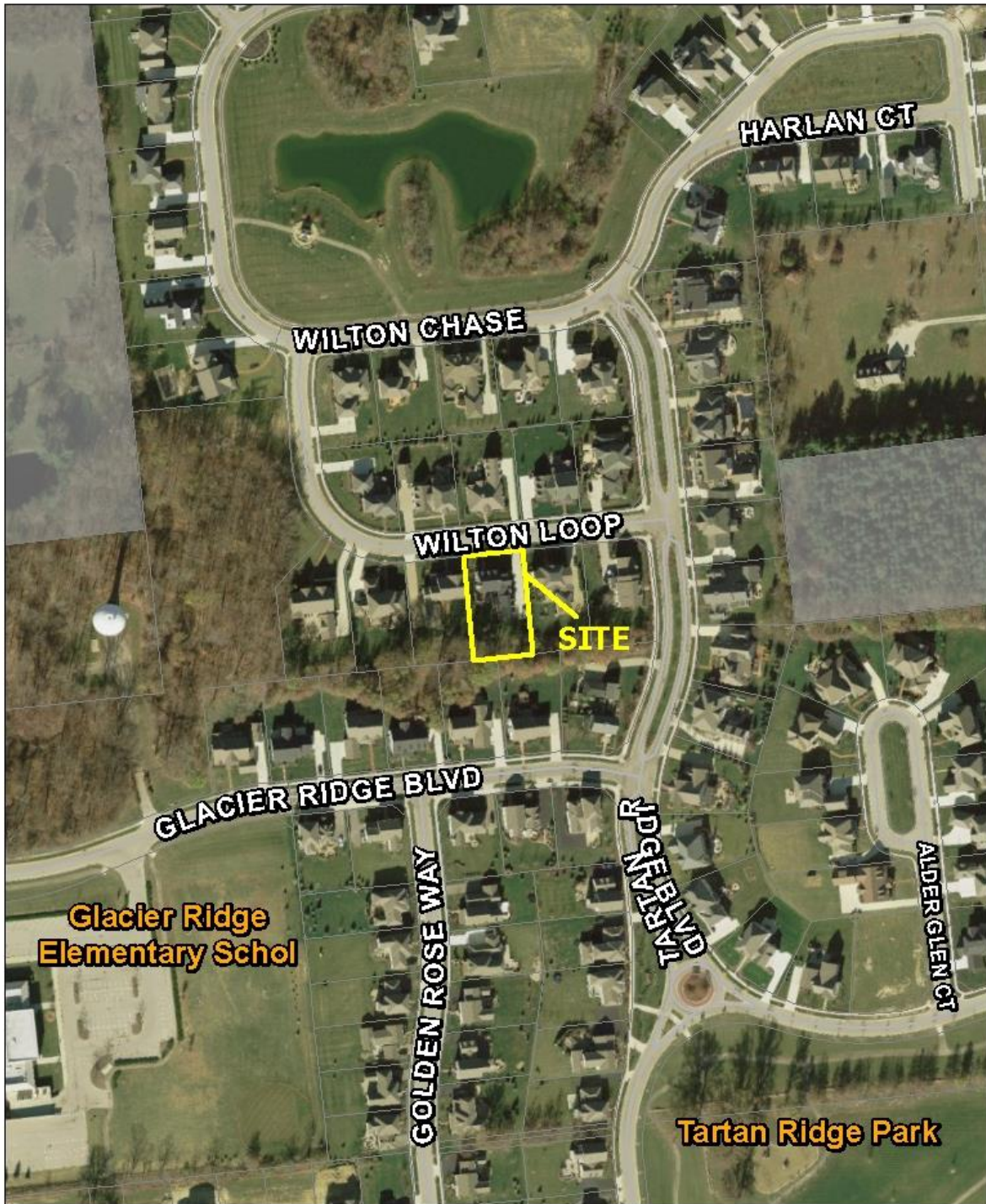
Planning Report

Thursday, August 25, 2016

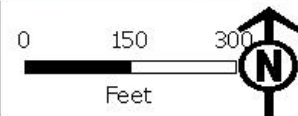
Buckles Residence- 7123 Wilton Loop - Administrative Appeal

Case Summary

Agenda Number	1
Case Number	16-064AA
Proposal	An appeal to a decision by the City of Dublin that a residential putting green is a "sport court" and that sport courts is not permitted in a No Build Zone.
Request	Administrative Appeal Review and approval of an administrative appeal under the provisions of Zoning Code Section 153.231.
Applicants	D Scott and Jennifer Buckles, property owners
Planning Contact	Tammy Noble, Senior Planner
Contact Information	(614) 410-4690, tnoble@dublin.oh.us
Planning Recommendation	Planning recommends the Board of Zoning Appeals affirm the City of Dublin's determination that a residential putting green is a "sports court".



16-064AA
Administrative Approval
Putting Green
7123 Wilton Loop



Facts	
Site	7123 Wilton Loop
Site Features	<p>The site is a 0.40 acres located on the south side of Wilton Loop, west of Tartan Ridge Boulevard in the Tartan Ridge subdivision. The site is zoned PUD, Planned Unit Development and is contained within the Tartan Ridge PUD. The site contains a single-family, residential structure that is access from a driveway extending from Wilton Loop. The site also contains an at-grade patio to the rear of the home.</p> <p>The site has several platted restrictions to the side and rear of the property. The site contain a 15-foot No Disturb Zone and a 25-foot No Build Zone. It also contains a 15-foot private utility easement. Of these three platted restrictions, the No Build Zone is the restricted area that is impacting the applicants' proposal. The applicants are proposing to construct a residential putting green outside the No Disturb Zone but located within the No Build Zone. The 15-foot utility easement is a private utility easement and is not regulated by the City of Dublin. The applicants will be required to directly work with the utility provider to ensure the putting green can encroach the easement.</p>
Background	<p>On August 1, 2016, the City of Dublin received a complaint that the property owners of 7123 Wilton Loop were removing vegetation and had construction equipment in a portion of a property that was designated as a No Disturb Zone and a No Build Zone. Planning conducted a site visit on August 2, 2016 and provided written documentation that a putting green is a "sports court" and is not permitted in the No Build Zone as defined by the City of Dublin Zoning Code. The applicants have been working with staff to resolve the issue. Since the site visit on August 2, 2016, no further work has been conducted and the applicants have filed an Administrative Appeal.</p>
Information Provided by the Applicant	<p>The applicants have provided a description, and material sample, of the putting green. According to the applicants, the putting green is constructed by layer of material that consists of crushed stone, geotextile fabric lining, and sand that is used for the base of the putting green. This layer of material is then covered by a synthetic material that has the general appearance of grass. It is porous and allows water to drain through the product. A material sample has been provided and is identified as synthetic turf that is manufactured by the XGrass Company. This material sample will be provided to the members of the Board of Zoning Appeals at the August 25, 2016 meeting for review.</p>

Details	Administrative Appeal
Process	<p>Zoning Code Section 153.231(C)(1) allows the Board of Zoning Appeals to review Administrative Appeals from any person or any governmental department affected or aggrieved, or to review any order, requirement, decision or determination where it is alleged by the appellant that there is error or misinterpretation in the administration of the Code. The Board may affirm, deny or modify a decision or determination rendered by the City of Dublin.</p>
Appeal Procedures	<p>In deciding the appeal, the Board is to determine whether or not the decision that was made was done so using the proper requirements and standards in this Code. The Board is limited to the information that was available to the administrative official or body who made the decision being appealed. Additional testimony is not appropriate.</p> <p>If after a determination that the administrative official or body making the decision did so improperly, the Board may reverse or affirm, wholly or partly, or may modify, the order, requirement, decision or determination appealed from, and may make an order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the administrative official or body from whom the appeal was taken.</p>
Criteria for An Administrative Appeal	<p>(1) An appeal may be taken from any person or any governmental department affected or aggrieved, and review any order, requirement, decision or determination where it is alleged by the appellant that there is error or misinterpretation in any order, requirement, decision, grant or refusal made by an administrative official or body charged with the enforcement and administration of this Code.</p> <p><i>The applicants are the owners of the property and are affected by the decision rendered by the City of Dublin.</i></p> <p>(2) Appeals shall be taken within 20 days after the decision by filing with the officer from whom the appeal is taken and with the Board of Zoning Appeals, a notice of appeal, specifying the grounds. The officer from whom the appeal is taken shall transmit to the Board of Zoning Appeals all the papers constituting the record upon which the action was taken.</p> <p><i>The decision rendered by the City of Dublin was August 2, 2016. The Administrative Appeal was filed on August 11, 2016 and therefore the appeal was applied for within 20 days of the decision.</i></p> <p>(3) An appeal shall stay all proceedings in furtherance of the action appealed from unless the Director of Land Use and Long Range</p>

Details	Administrative Appeal
	<p>Planning certifies to the Board, after notice of appeal has been filed, that, due to the facts stated in the certificate, a stay would cause imminent peril to life or property. In this case, the proceedings shall not be stayed other than by a restraining order, which may be granted by a court of record.</p> <p><i>The applicants have discontinued construction within the No Build Zoned and a stay of all proceedings has been in place, since the August 2, 2016 notification.</i></p> <p>(4) In deciding the appeal, the Board shall determine whether or not the decision that was made was done so using the proper requirements and standards in this Code. The decision of the Board is limited to the information that was available to the administrative official or body who made the decision being appealed. Additional testimony is not appropriate.</p> <p><i>The Board of Zoning Appeals will considered whether the City of Dublin used the proper requirements of the Code by determining that a residential putting green is a "sports court". This decision will be limited to the information provided to the City of Dublin and will not include additional testimony beyond the submission materials of August 11, 2016.</i></p> <p>(5) After a determination that the administrative official or body making the decision did so improperly, the Board may reverse or affirm, wholly or partly, or may modify, the order, requirement, decision or determination appealed from, and may make an order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the administrative official or body from whom the appeal was taken.</p> <p><i>The Board will make a determination at the August 25, 2016 meeting to either reverse, affirm, or modify the decision rendered by the City of Dublin that a residential putting green is a "sports court".</i></p>
Related Zoning Code	<p>Section 153.002 (Definitions section).</p> <p>No Build Zone. An open area where construction is prohibited. All structures including but not limited to buildings, parking, driveways, sidewalks, sheds, swimming pools, patios, decks or other accessory structures, fences, antennae and basketball courts <i>or other sports courts are prohibited in order to preserve open space.</i></p>

Details	Administrative Appeal
Administrative Appeal	<p>The applicants filed for an administrative appeal to a decision rendered by the City of Dublin that a putting green is a “sports court” and therefore cannot be placed in a No Build Zone. The bases of their appeal is outlined in a correspondence submitted to the Board entitled “City of Dublin Zoning Appeals – Buckles Residence – Putting Green in NBZ”. A summary of the correspondence is as follows:</p> <ol style="list-style-type: none">1) The materials that will be used in the construction of the putting green a porous synthetic grass system that looks and functions like grass.2) There are no additional components to the putting green such as lighting, fencing or retaining walls.3) Sports courts are typically constructed of a concrete base or a rubberized surface making them a permanent structure. They also typically contain fencing.4) When referencing putting greens using a Google search, there is not information that equates putting greens to sports courts. <p>The applicants has also stated that beyond not being a sport court, the putting green meets the intent of a No Build Zone based on its definition.</p>

Analysis	Administrative Appeal
Basis of Decision	<p>Planning has determined that a residential putting green is considered a "sports court". This decision is based on the fact that the Code does not specifically list putting greens as a "use". Therefore, staff is required to determine the most similar type of use. Staff based their decision on the following:</p> <p><i>Defining the Use.</i></p> <ol style="list-style-type: none"> 1) The use is a recreational use. Its purpose is to provide facilities to accommodate a recreational activity. 2) The materials used to create the putting green include an eight inch base that includes gravel, sand, fabric lining and a synthetic surface. This materials result in the putting green being permanently affixed to the ground therefore would meet the definition of a structure. This is relevant when analyzing what is permitted in a No Build Zone (see below). 3) The City of Dublin Zoning Code defines structure as "anything constructed, or erected, the use of which requires permanent location on the ground, or attachment to something having permanent location on the ground, including advertising signs, billboards, mobile homes and other construction or erection with special function or form except fences or walks. 4) The most similar type of use is a sports court. 5) The City of Dublin Zoning Code does not provide a definition of a sports court or any derivatives of the term. The most common resource for definitions in the United States is the Webster Dictionary. The dictionary does not define sports court but does define "court" which is a derivative of sports court. The definition is "a space arranged for playing a certain game such as tennis courts or basketball courts" 6) A putting green is a designated area that is arranged for playing games and is similar to a tennis court or basketball court.

Recommendation	Administrative Appeal
Affirm Decision	Planning recommends the Board of Zoning Appeals affirm the City of Dublin that a residential putting green is a "sports court".

ADMINISTRATIVE APPEALS

The City of Dublin Zoning Ordinance stipulates that the Board of Zoning Appeals may hear appeals to any administrative decision rendered by the City in the review, interpretation and enforcement of the Zoning Code. The authority of the Board and the appeal process are outlined in Sections 153.231(C)(1) and 153.235(F).

153.235 (F) Administrative Appeal to the Board of Zoning Appeals

(F) Administrative Appeal to the Board of Zoning Appeals

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- (2) Appeals shall be taken within 20 days after the decision by filing with the officer from whom the appeal is taken and with the Board of Zoning Appeals, a notice of appeal, specifying the grounds. The officer from whom the appeal is taken shall transmit to the Board of Zoning Appeals all the papers constituting the record upon which the action was taken.
- (3) An appeal shall stay all proceedings in furtherance of the action appealed from unless the Director of Land Use and Long Range Planning certifies to the Board, after notice of appeal has been filed, that, due to the facts stated in the certificate, a stay would cause imminent peril to life or property. In this case, the proceedings shall not be stayed other than by a restraining order, which may be granted by a court of record.
- (4) In deciding the appeal, the Board shall determine whether or not the decision that was made was done so using the proper requirements and standards in this Code. The decision of the Board is limited to the information that was available to the administrative official or body who made the decision being appealed. Additional testimony is not appropriate.
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